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09/902,051	07/10/2001	Mark J. Chambers	TI-30883	7744

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

EXAMINER	
DAVIDSON, DAN	

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/902,051
Filing Date: July 10, 2001
Appellant(s): CHAMBERS ET AL.

MAILED

SEP 0 1 2004

Technology Center 2600

Mr. W. Daniel Swayze, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 25, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because the language on which Appellant's argument is based is the same in each of claims 1 and 6, and Applicant does not differentiate between claims 1 and 6 in his arguments.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,359,743	PATTI et al	3-2002

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by PATTI et al. This rejection is set forth in a prior Office Action, mailed on September 9, 2003.

(11) Response to Argument

Appellant argues that the Examiner incorrectly cites column 6, lines 51-56 of Patti to reject Appellant's claim limitation drawn to an offset correction circuit to correct DC offset in accordance with a data rate. Appellant supports his argument with a statement that the resistance circuit 132 of Patti does not respond to data rates. He further supports his argument with a statement that Patti does not allow for adjustment of the programmable thermal asperity recovery circuit (the resistance circuit 132) based on different data rates, since Patti does not disclose a circuit to determine the data rate. In short, Appellant is arguing that the claim language "in accordance with a data rate" is not met by column 6, lines 51-56 of Patti. Appellant's argument is not persuasive.

The use of the phrase "in accordance" is equivalent to the use of the phrases "in agreement" and "in conformity". It is not synonymous with "in response to (a determined)". In the instant application, the offset correction circuit is in agreement with the data rate, since the offset correction circuit is responsive to a signal read at a data

rate. Appellant's use of the language "does not respond to" in his argument is not drawn to claimed subject matter, and thus does not support his argument.

Appellant argues that Patti does not respond to data rates (i.e. multiple data rates). On its face, this argument is not persuasive, since "data rates" is not claimed. However, even if assuming for argument's sake that "data rates" is claimed, the disclosure of Patti would be sufficient to reject Appellant's claims. This is because, as admitted by Appellant in his arguments, Patti provides the offset correction circuit with the flexibility to be used with multiple data rates (i.e. the offset correction circuit is programmable in accordance with different data rates).

Given the discussion above, Appellant's statement that the resistance circuit 132 of Patti does not respond to data rates is not supportive of his argument.

Appellant's statement that Patti does not allow for adjustment of the programmable thermal asperity recovery circuit based on different data rates is not correct as discussed above (the offset correction circuit is provided with the flexibility to be used with multiple data rates), and is not drawn to claimed subject matter as discussed above. Further, a circuit to determine the data rate is not needed to allow for adjustment of the programmable thermal asperity recovery circuit based on different data rates as evidenced by the disclosure of Patti.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

DID
Dan I Davidson
August 23, 2004

Conferees

Wayne R Young

Sinh N Tran

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265